IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SEVENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO: 32587 of 1998

Between:

1 Mr. S. Ismail Rep. By its Authorised Representative
M/S K.R.M. Marine Exports Ltd., No.25, Fishing Harbour,
Visakhapatnam . 530 001
2 K.Vella Swamy S/o K.R. Mayalagu,
M/s K.R.M.Marine Exports Ltd., R/o 7A, Solai Krishna Street,
Maran Avenue, Janaki Nagar Valasavavakham, Chennai-87.

... PETITIONERS

AND

1 Agricultural Market Committee Rep. By its Secretary,
Kakinada.
2 Agricultural Market Committee, Rep. By its Secretary,
Bheemavaram.
3 Agricultural Market Committee Rep. By its Secretary,
Visakhapatnam.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus or any other Appropriate Writ or order or Direction holding that the Respondents do not have Jurisdiction to prosecute the petitioners or Jurisdiction under the byelaws to asses the transaction of purchase of prawns by the petitioners and declare the action of the Respondent in not furnishing the byelaws and notifications under section 4 of Andhra Pradesh (Agricultural Produce and Live Stock) Markets act in respect of the Respondents to the petitioners as arbitrary and illegal and consequently interdict the Respondents from levying any market fee on the petitioner or prosecute the petitioners for alleged violation of any provision of the Andhra Pradesh (Agricultural Produce and Live Stock) Markets Act, 1996.

Counsel for the Petitioners: MR.G.MANOHAR

Counsel for the Respondents: MR. K. MADHAVA REDDY

The Court made the following:

ORDER:

This writ petition is filed seeking Mandamus holding that the respondents have no jurisdiction under the byelaws either to prosecute them or assess the transaction of purchase of prawns by them, and to declare the action of the respondents in not issuing the byelaws and notifications under Section 4 of Andhra Pradesh (Agricultural Produce and Live Stock) Markets Act, 1966 (for short 'the Act') in respect of the respondents, as arbitrary and illegal, and consequentially interdict the respondents from levying any market fee on the petitioners or prosecute them for alleged violation of any of the provisions of the Act.

2. First petitioner-company claims that it is engaged in exporting marine products, viz., prawns/shrimps and fish to foreign countries. The second petitioner, who is the Managing Director of the first petitioner company states that even though the company obtained licences under Section 7 of the Act, respondents neither issued notification under

Section 4 (3) of the Act, nor established market facilities for sale and purchase of and for processing prawns. The petitioners state that since the respondents are not providing any service, they cannot levy any fee. While so, it is the case of the petitioners that respondents issued the impugned notice dated 19-09-1998 calling upon the first petitioner to submit books of account, and though the petitioners explained to the respondents informing them that unless they know what the notified market area is, they cannot produce the relevant books of account, and requested them to furnish copies of the notification declaring the market area as well as the copies of the byelaws, the petitioners state that no material as sought by them has been furnished by the respondents till date. Hence, the present writ petition.

3. Heard the learned counsel for the petitioners and the learned Standing Counsel for the respondents.

4. The impugned notice issued by the respondents to the petitioners under Sections 17 (c) (1) and Section 7 (5) of the Act, is merely a show cause notice calling upon them to produce the books of accounts pertaining to the notified agricultural produce, viz. prawns and requested them to submit the same on the relevant date, and failing which, it would be deemed that petitioners have violated Section 17 (c) (1) of the Act and they would be liable for punishment under Sections 23 and 33 of the Act for one

year imprisonment as well as fine of Rs.5,000/-.

5. Petitioners, without submitting their explanation to the show cause notice and without producing the books of accounts as requested by the respondents, approached this Court hastily. It is well settled law that no writ petition is maintainable against a show cause notice. This Court in **K.M. Safiullah V. A.P. State Wakf Board** held that the writ Court would not ordinarily interfere at the stage of show cause notice for it favours the quasi-judicial authority vested with the power to exercise and discharge its statutory functions, with a free hand, independent from outside control. When a statutory authority issues a show cause notice, the recipient of the show cause notice has ample opportunity to approach the quasi-judicial authority to place his/her case before such authority that will decide in accordance with law. If any order passed by the quasi-judicial authority goes against the person, it is always open to such person to avail the remedy of appeal and then approach this Court under Article 226 of the Constitution, if it is permissible under law. A writ petition against a show cause notice is, ordinarily, not maintainable.

6. The impugned notice being merely a show cause notice, it is always open to the petitioners to put-forth their grievance in the reply which they are asked to submit, and if the respondents had not furnished the material as asked by them to enable them to reply to the show cause notice, they may reply the same to the show cause notice, but certainly a writ petition against a mere show cause notice, is not maintainable, for no action in pursuance thereof affecting the interest of the petitioners, is being taken, except calling upon them to submit their explanations as to the violations alleged therein.

There is no merit in the writ petition, and the same is accordingly dismissed. However, the petitioners are at liberty to submit their explanation to the impugned show cause notice issued by the respondents, within a period of two weeks from the date of receipt of a copy of this order, and on such explanation being filed, the respondents shall consider the same and pass appropriate orders thereon, in accordance with law. No costs.

N.V. RAMANA, J

April 7, 2005

MRR

ASSISTANT REGISTRAR

Copy to. –

1 *The Secretary representing Agricultural Market Committee, Kakinada.*
2 *The Secretary representing Agricultural Market Committee, Bheemavaram.*
3 *The Secretary representing Agricultural Market Committee, Visakhapatnam.*

Two C.C. s to the G.P. for Agriculture, High Court of A.P., Hyderabad

(OUT)

Two C.D. Copies.

*Form-NIC-OGS/WP {**RAGHU**}*